

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ALLCHEM PERFORMANCE PRODUCTS,  
INC.,

Plaintiff,

VS.

CIVIL ACTION H-10-3224

AQUILINE WAREHOUSE, LLC, AND  
CACTUS VALLEY POOL SERVICES AND  
REPAIR, L.L.C., DOING BUSINESS  
AS CACTUS VALLEY POOL,

Defendants.

**OPINION AND ORDER**

Pending before the Court in the above referenced cause are Plaintiff AllChem Performance Products, Inc's ("AllChem's") [third]<sup>1</sup> motion for default judgment (instrument #29) against Defendant Aqualine Warehouse, L.L.C. ("Aqualine") based upon Allchem's Original Complaint, which was served on Aqualine on January 10, 2011.

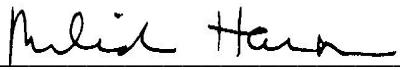
Allchem has amended its complaint twice since the Original Complaint was filed. #16, 28. "An amended complaint supersedes the original complaint and the original complaint has no legal effect except to the extent that it is incorporated by reference into the amended complaint." *Rossignol v. Tillman*, Civ. A. No. 10-

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<sup>1</sup> Previous motions for default are instruments #9, 11. Because Allchem filed an amended complaint (#16) before the Court reviewed these motions, it declared them moot. #18.

3044, 2011 WL 1193017, \*2 (E.D. La. Mar. 25, 2011), *citing Eason v. Holt*, 73 F.3d 600, 603 (5<sup>th</sup> Cir. 1996), and *King v. Dogan*, 31 F.3d 344, 346 (5<sup>th</sup> Cir. 1994). See also *Boelens v. Redman Homes, Inc.*, 759 F.2d 504, 508 (5<sup>th</sup> Cir. 1985). The Second Amended Complaint (#28) does not incorporate the Original Complaint. Thus the Court ORDERS that the current motion for default (#29) is DENIED.

**SIGNED** at Houston, Texas, this 20th day of December, 2011.



MELINDA HARMON  
UNITED STATES DISTRICT JUDGE